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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1942.

No. 767.

MARCO REGINELLI,
Petitioner,
vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR REHEARING.

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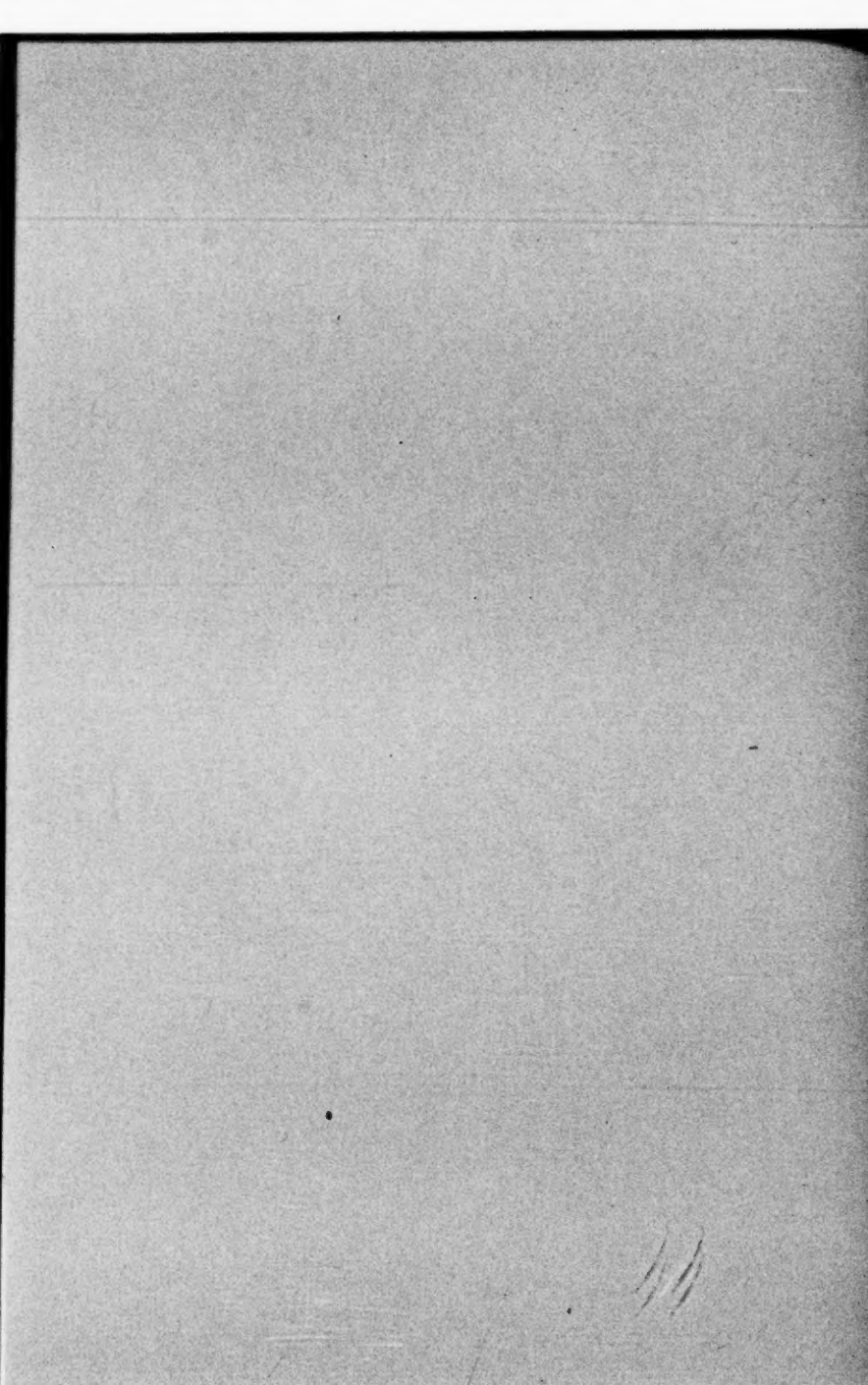


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*To the Honorable, the Chief Justice and Associate Justices
of the Supreme Court of the United States:*

Marco Reginelli, by his attorney, William A. Gray, petitions the Court for a rehearing of the petition for writ of certiorari previously filed and denied in the above matter, for the following reasons:

1. Your petitioner has been convicted of the heinous offense of violating the White Slave Act and should be afforded the opportunity to present to this Court his

argument that the statute under which he was convicted does not apply to the facts of this case.

2. The statute involved has been construed only once by this Court in an opinion by a divided Court over twenty-five years ago in the case of *Caminetti v. United States*, 242 U. S. 470, and the case then before the Court is clearly distinguishable from the case at bar.

3. The *Caminetti* case was based upon an erroneous theory of statutory construction and should be reviewed to determine the true scope of the White Slave Act.

4. The tenor of the recent decisions of this Court concerning statutory construction and those of the various Circuit Courts of Appeal concerning the construction of the Mann Act is such as should justify a review of this conviction.

Point 1.

Due caution requires the review of any case of a conviction for a heinous offense where there is the remotest possibility that the conviction was erroneous. Especially is this true where the very jurisdiction of the court is questioned—that is, where there is some doubt as to the applicability of the statute under which the indictment was framed.

The petitioner was indicted and convicted for violation of the White Slave Act. The evidence established that he paid for the interstate journey of a girl from her home in Camden, New Jersey (which was also petitioner's residence) to Miami, Florida, where he was then vacationing. The trial Judge directed a verdict of not guilty on the count of the indictment charging "inducing and enticing". (R. 63a).

It is admitted that the parties were guilty of fornication in Florida, and the sole question urged herein is whether that constitutes a violation of the Mann Act.

In that this Court has not construed the Mann Act for over twenty-five years and in that the precise question now raised has never been passed upon, petitioner respectfully requests this Court to hear his argument on the limited issue presented—namely, whether the Mann Act applies to the facts of his case.

Point 2.

The case of *Caminetti v. United States*, 242 U. S. 470, does not control the facts of the case at bar. Here the indictment charges and the evidence establishes at most "illicit sexual intercourse". In that case it was charged and proved that the girls had been transported for purposes of debauchery and concubinage, expressly within the language of the statute.

Thus, if petitioner's offense falls within the statute at all it is because of the words "or for any other immoral purpose".

Petitioner contends, and urges this Court to hear argument on the following proposition—namely, that the principle of *eiusdem generis* limits the connotation of the words "any other immoral purpose" to such as are of like character with debauchery or prostitution and mere fornication falls short of that description. Cf. *Hansen v. Haff*, 291 U. S. 559, 562. See also *United States ex rel Huber v. Sibray*, 178 F. 150 (Annotation in 78 L. ed. 973, 976).

Point 3.

Although it is our present position that the *Caminetti* case is no authority in support of the conviction herein, we believe this Court should review its decision there in view of the erroneous theory of statutory construction upon which it was based.

Petitioner should be entitled to a hearing where he contends that the statute under which he was indicted has no application to the facts of his case: Cf. *Viereck v. United States*, U. S. , 87 L. ed. 529, 531.

Point 4.

In the past ten years there has been no conviction sustained in any court for violation of the White Slave Act where the defendant was guilty of fornication only and where he was not guilty of transporting women for the purpose of prostitution or debauchery.

We believe that the statute should be limited to those cases in which true "white slavery" is involved because its sponsor stated that that was its purpose: Cf. *United States v. Monia*, U. S. , 87 L. ed. 297, 300; *United States ex rel. Marcus v. Hess*, U. S. , 87 L. ed. 374, 378.

In any event, petitioner should be entitled to a hearing by this Court in view of its recent decisions involving statutory construction: *Spies v. United States*, U. S. 87 L. ed. 342, 343; *Harrison v. Northern Trust Co.*, U. S. , 87 L. ed. 320, 322; *United States v. Monia*, *supra*; *United States ex rel. Marcus v. Hess*, *supra*; *Helvering v. Griffiths*, U. S. , 87 L. ed. 597; *Pacific Coast Dairy v. Department of Agriculture*, U. S. , 87 L. ed. 560, 563; *Federal Security Administrator v. Quaker Oats Co.*, U. S. , 87 L. ed. 540; *Viereck v. United States*, *supra*; *Fisher Music Co. v. Witmark*, U. S. , 87 L. ed. 742.

Wherefore your petitioner prays this Court to reconsider its refusal to grant certiorari and to afford to him the opportunity to present his argument for review.

All of which is respectfully submitted.

WILLIAM A. GRAY,
Counsel for Petitioner.

Certificate of Counsel.

The foregoing petition is believed to be well-founded in point of law and has not been filed for purposes of delay.

WILLIAM A. GRAY,
Counsel for Petitioner.

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